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UNITED STATES CIVIL SERVICE COMMISSION

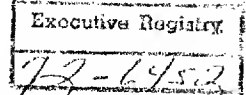
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

YOUR REFERENCE

15 DEC 1972

Mr. William E. Colby
Executive Director-Comptroller
Central Intelligence Agency
Washington, D.C. 20505



Dear Mr. ^{Bill} Colby:

The Chairman of the Senate Committee on Post Office and Civil Service has asked the Civil Service Commission to study and report on positions excluded by statute from the requirements for the competitive service. This request arises from questions which came up on a legislative proposal in the last session of Congress. For your convenience excerpts from the Committee's Report which describe the problems are enclosed as Appendix A. These will give background and perspective on the inquiry the Commission has been asked to make.

To obtain the information for the Committee, the Civil Service Commission is asking agencies for a report on positions which are excepted by statute from the competitive service. In some instances it will be an entire agency that is excepted; in others it will be an organizational unit or an occupational group of positions. The Committee's primary interest is in those statutory exclusions which comprise a significant block of positions and not in individual and unique positions.

For the guidance of your staff, a statement of what should be covered in the report is attached to this letter as Appendix B. In summary, the report should include a statement of the historical background and the reasons why the positions were placed in the excepted service; the personnel and operating policies and procedures in use for appointment, promotion, and removal of the employees in the excepted positions; and the present reasons for continuance of the exceptions if such is the recommendation.

The treatment of attorney positions presents a special problem. For purposes of this inquiry they are to be included even though many are excepted by Commission action. The Commission has no choice in the matter since it is prohibited by appropriation act from using funds to examine for attorney positions. We will, therefore, prepare the general historical background statement on all attorney positions excepted by Schedule A. Each agency should, however, provide information on personnel operating policies for attorney positions and

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present its own viewpoint concerning the continuance of the exception. The report should not include any other positions placed in the excepted service by Commission action or by action of the President.

Since a common plan for the requested report will facilitate comparison of the different personnel systems, we have attached a format for topics of information and discussion. The format is not intended, however, to limit discussion. Please feel free to add any other material which you consider pertinent.

We want to emphasize the importance of indicating the specific reasons for the need to continue an exception. This will enable us to furnish the Committee with complete and current information on the positions excepted by statute.

Please forward your reply to the Director, Bureau of Policies and Standards, Civil Service Commission, by February 12, 1973. Telephone inquiries may be directed to Mrs. Wilma Lehman, Code 101-25623 or 632-5623.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bernie".

Bernard Rosen
Executive Director

2 Enclosures

Appendix A: Excerpts from Committee Report
Appendix B: Format for Agency Report

APPENDIX A

Excerpts from Senate Report No. 92-864 to accompany S. 1682,
Federal Executive Service, June 15, 1972

* * * * *

The Committee is strongly of the opinion that, to the extent feasible, there should be a single personnel system in the Executive Branch applicable to jobs of equivalent level. This has not been the case for many years because certain agencies, or components thereof, have been permitted by law to have their own systems without regard to the Civil Service law and rules. The Committee believes that in general such legislated exceptions do not permit the executives the flexibility required to administer the total personnel program and update it as conditions change.

S. 1682, as introduced, would have perpetuated such exceptions by excluding from the Federal Executive Service a number of agencies or components of agencies. The Committee rejected much of this part of the bill, not because it did not recognize the possibility that some differences in system may be required in some cases, but rather because the justification of the proposal tended to consist of reasons for maintaining the status quo rather than a substantive identification of true differences requiring unlike treatment. The Committee has serious reservations whether the reasons which prevailed when the agencies or components of agencies were excepted from Civil Service law and rules still prevail.

* * * * *

The Committee realizes that the separate systems prevailing for executive-level positions in agencies excepted from the Civil Service laws is symptomatic of a larger problem, since these positions represent only a small percentage of the spaces in some agencies. Therefore, the Chairman of the Civil Service Commission has been requested by letter to study the current circumstances pertaining to the various agencies or components of agencies and report his findings to the Committee by July 1, 1973.

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APPENDIX B

OUTLINE FOR REPORT ON STATUTORY EXCEPTIONS
TO COMPETITIVE SERVICE

The Senate Committee on Post Office and Civil Service has asked the Civil Service Commission to provide it with a comprehensive review of the situation on statutory exceptions from the requirements of the competitive service. The report is to include the background for the exceptions, the personnel management operations under them, and any reasons for continuing the present arrangements.

The Committee's primary interest is in those statutory exclusions which comprise a significant block of positions. The exclusions might include all positions in an entire agency, in an organizational component of an agency, or even the positions in an occupational group which crosses organizational lines. In some cases the positions may be under a separate personnel management system. Whenever a significant number of jobs are involved, however, the exception should be included in the agency's report. Single-position exceptions or exceptions of only a few positions need not be reported.

Information on the items listed below is needed to be fully responsive to the Committee's request. It will facilitate comparison of agency reports and compilation of a general report if the format indicated below is used. However, departments and agencies should feel free to expand on or add to the outlined topics whenever they have information, comments, or recommendations which will be helpful to either the Civil Service Commission or the Committee. Please note that highly specific rather than general information is requested.

Report Requested by February 12, 1973

- I. Identification and historical basis of exceptions in the department or agency.
 - a. Statutory exception citation(s).
 - b. Coverage of exception.
 1. Identify the organizational unit covered by the exception cited under I-a.
 2. Identify occupational groups of significant size excepted by statute.
 - Include attorney positions excepted by the Commission under Schedule A although it is unnecessary for individual agencies to develop the historical basis for these under

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Id below. Schedule A attorney positions are considered for the purposes of this study to be an exception since the Commission is prohibited by appropriation act to use funds to examine for them.

--Non-appropriated fund positions also fall within the scope of the study. Statutory provisions declaring incumbents to be non-Federal employees for some purposes are a form of exclusion from the competitive service.

--It will not be necessary to include the temporary appointments of experts or consultants in the report.

c. The number and kinds of positions covered by the exception.

d. Historical basis for the exception.

--Describe the conditions which led to the statutory exclusion from the competitive service. If the positions are older than the Civil Service system, explain, if the reasons are known, why they were not included in it. Discuss the reasons which set the agency, organizational component, or occupational group apart from other agencies or positions in the Federal Government.

II. Current agency personnel policy, practice, and procedures for the excepted positions.

The purposes of this material are:

--to permit comparison with the characteristics of the competitive service and

--to determine whether other personnel systems meet merit system standards.

Agencies should submit information about the methods of operation and procedures followed with special attention to the following:

a. Recruitment and Selection.

1. The use of announcements or other kinds of publicity of vacancies.

2. The use of positive recruiting methods.

3. Job evaluation system and qualifications standards followed.

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4. Examining methods and techniques practiced.
 - Written tests and other ranking devices.
 - Registers or other employment lists.
5. Selection and appointment practices utilized.
 - Application of veteran preference.
 - Application of EEO.
- b. Promotion policies in effect.
- c. Removal bases and procedures in effect.
- d. Are the methods of recruiting, selection, promotion, and removal considered to be based on merit principles?

Comment.

III. Agency analysis of need for continuing the exception.

- a. Compare present employment conditions and staff problems with those which existed at the time of the statutory exception from the competitive service.
- b. Agency recommendations and reasons concerning the continuance of the statutory exceptions.

These should be as specific as possible. For example, if certain procedures are considered to be more flexible, more easily or more quickly accomplished, or more administratively practical in the excepted than in the competitive service, indicate specifically:

- to what policy or practice reference is made and
- the advantage and how it is obtained.

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